DISTRICT OF COLUMBIA

OFFICIAL CODE

2001 EDITION

Volume 8

Title 11

Organization and Jurisdiction of the Courts

to

Title 15

Judgments and Executions; Fees and Costs

JUNE 2014 CUMULATIVE SUPPLEMENT

LexisNexis®

5442111

ISBN 978-0-7698-6582-9 (Volume 8)

ISBN 978-0-7698-6495-2 (Code set)

Matthew Bender & Company, Inc.
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www.lexisnexis.com
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PREFACE

These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2014.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at www.lexisnexis.com/advance, www.lexisnexis.com/research, and http://dcclims1.dccouncil.us/lims.

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Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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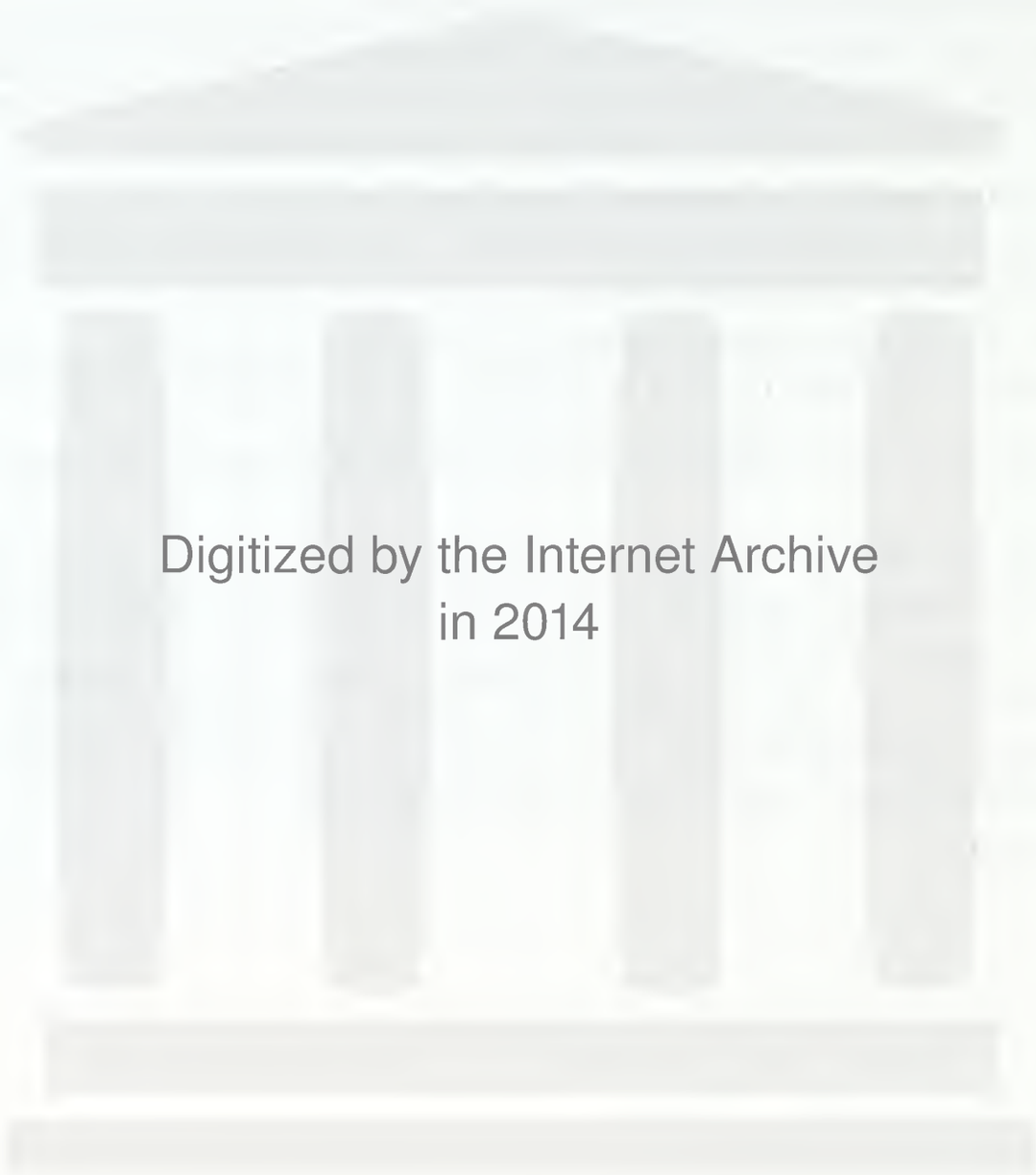

DIVISION II. JUDICIARY AND JUDICIAL PROCEDURE.

TITLE 11. ORGANIZATION AND JURISDICTION OF THE COURTS.

Chapter 1. General Provisions.

§ 11-101. Judicial power.

CASE NOTES

District of Columbia Court of Appeals.
When an attorney contested an order compelling arbitration, the order was final, for purposes of appeal, because such orders were final and appealable under both D.C. Code § 16-4427(a)(1) and D.C. Code tit. 11. Parker v. K&L Gates, LLP, 76 A.3d 859, 2013 D.C. App. LEXIS 619 (2013).

Chapter 5. United States District Court for the District of Columbia.

Subchapter I. Jurisdiction.

§ 11-502. Criminal jurisdiction.

Section references. — This section is referenced in § 11-923 and § 23-311.

LAW REVIEWS AND JOURNAL COMMENTARIES

Federal And Local Jurisdiction In The District Of Columbia, 92 Yale Law Journal 292.

Chapter 7. District of Columbia Court of Appeals.

Subchapter III. Miscellaneous Provisions

Subchapter II. Jurisdiction.

§ 11-721. Orders and judgments of the Superior Court.

Section references. — This section is referenced in § 17-301 and § 17-307.

CASE NOTES

Arbitration appeals.

Court of appeals had jurisdiction of a bank's appeal of an order denying its motion to compel arbitration because it was immediately appealable under the Federal Arbitration Act (FAA); the bank relied on an agreement containing a provision for arbitration under the FAA, and whether it could prevail ultimately on its argument that the agreement containing the arbitration provision controlled went to the merits of the controversy rather than the appellate court's jurisdiction to adjudicate it. Bank of Am., N.A. v. District of Columbia, 80 A.3d 650, 2013 D.C. App. LEXIS 788 (2013).

§ 11-723. Certification of questions of law.

CASE NOTES

Workers' compensation.

Employer was not liable to a mother in a wrongful death and survival action after an employee committed suicide using a gun provided by the employer because the employee's suicide was an intervening act that precluded the employer's liability under District of Columbia law, and the mother effectively admitted that the suicide was a willful and intentional act when the mother argued that the District of Columbia Workers' Compensation Act, D.C. Code § 32-1501 et seq., was inapplicable pursuant to D.C. Code § 32-1503(d); the mother was not entitled to have questions certified to the District of Columbia Court of Appeals pursuant to D.C. Code § 11-723(a) because certification based on the possibility that the District of Columbia Court of Appeals might adopt additional exceptions to its general rule as to suicide had no logical stopping point. Rollins v. Wackenhut Servs., 703 F.3d 122, 2012 U.S. App. LEXIS 26549 (D.C. Cir. 2012).

LAW REVIEWS AND JOURNAL COMMENTARIES

A View From the Loyal Opposition. Thomas F. Hogan, 66 Geo.Wash.L.Rev. 739 (1998).

Certification: (Over) due Deference? Karen Lecraft Henderson, 63 Geo.Wash.L.Rev. 637 (1995).

Subchapter III. Miscellaneous Provisions.

§ 11-744. Judicial conference.

The chief judge of the District of Columbia Court of Appeals shall summon biennially or annually the active associate judges of the District of Columbia Court of Appeals and the active judges and magistrate judges of the Superior Court of the District of Columbia to a conference at a time and place that the chief judge designates, for the purpose of advising as to means of improving the administration of justice within the District of Columbia. The chief judge shall preside at such conference which shall be known as the Judicial Conference of the District of Columbia. Every judge and magistrate judge summoned shall attend, and, unless excused by the chief judge of the District of Columbia Court of Appeals, shall remain throughout the conference. The District of Columbia Court of Appeals shall provide by its rules for representation of and active

participation by members of the District of Columbia Bar and other persons active in the legal profession at such conference.

(Dec. 31, 1975, 89 Stat. 1102, Pub. L. 94-193, § 1(a); June 13, 1994, Pub. L. 103-266, § 1(b)(8), 108 Stat. 713; Dec. 12, 2012, 126 Stat. 1611, Pub. L. 112-229, § 2(a).)

Effect of amendments. — The 2012 amendment by Pub. L. 112-229, in the first sentence, substituted "biennially or annually" for "annually" and added "and magistrate judges"; and in the third sentence, substituted "Court of Appeals" for "Courts of Appeals" and added "and magistrate judge".

§ 11-745. Emergency authority to toll or delay proceedings.

(a) *Tolling or Delaying Proceedings.* —

(1) *In general.* — In the event of a natural disaster or other emergency situation requiring the closure of the Court of Appeals or rendering it impracticable for the United States or District of Columbia Government or a class of litigants to comply with deadlines imposed by any Federal or District of Columbia law or rule that applies in the Court of Appeals, the chief judge of the Court of Appeals may exercise emergency authority in accordance with this section.

(2) *Scope of authority.* — The chief judge may enter such order or orders as may be appropriate to delay, toll, or otherwise grant relief from the time deadlines imposed by otherwise applicable laws or rules for such period as may be appropriate for any class of cases pending or thereafter filed in the Court of Appeals.

(3) *Unavailability of chief judge.* — If the chief judge of the Court of Appeals is absent or disabled, the authority conferred by this section may be exercised by the judge designated under section 11-706(a) or by the Joint Committee on Judicial Administration.

(4) *Habeas corpus unaffected.* — Nothing in this section shall be construed to authorize suspension of the writ of habeas corpus.

(b) *Issuance of Orders.* — The United States Attorney for the District of Columbia or the Attorney General for the District of Columbia or the designee of either may request issuance of an order under this section, or the chief judge may act on his or her own motion.

(c) *Duration of Orders.* — An order entered under this section may not toll or extend a time deadline for a period of more than 14 days, except that if the chief judge determines that an emergency situation requires additional extensions of the period during which deadlines are tolled or extended, the chief judge may, with the consent of the Joint Committee on Judicial Administration, enter additional orders under this section in order to further toll or extend such time deadline.

(d) *Notice.* — Upon issuing an order under this section, the chief judge—

(1) shall make all reasonable efforts to publicize the order, including, when possible, announcing the order on the District of Columbia Courts Web site; and

(2) shall send notice of the order, including the reasons for the issuance of the order, to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives.

(e) *Required Reports.* — Not later than 180 days after the expiration of the last extension or tolling of a time period made by the order or orders relating to an emergency situation, the chief judge shall submit a brief report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Joint Committee on Judicial Administration describing the orders, including—

(1) the reasons for issuing the orders;

(2) the duration of the orders;

(3) the effects of the orders on litigants; and

(4) the costs to the court resulting from the orders.

(f) *Exceptions.* — The notice under subsection (d)(2) and the report under subsection (e) are not required in the case of an order that tolls or extends a time deadline for a period of less than 14 days.

(Dec. 12, 2012, 126 Stat. 1611, Pub. L. 112-229, § 2(b)(2)(A).)

CHAPTER 9. SUPERIOR COURT OF THE DISTRICT OF COLUMBIA.

Subchapter I. Continuation and Organization.

§ 11-908A. Special rules regarding assignment and service of judges of Family Court.

(a) *Number of judges.* —

(1) *In general.* — The number of judges serving on the Family Court of the Superior Court shall be not more than 15.

(2) *Emergency reassignment.* — If the chief judge determines that, in order to carry out the intent and purposes of the District of Columbia Family Court Act of 2001, an emergency exists such that the number of judges needed on the Family Court of the Superior Court at any time is more than 15—

(A) the chief judge may temporarily reassign judges from other divisions of the Superior Court to serve on the Family Court who meet the requirements of paragraphs (1) and (3) of subsection (b) or senior judges who meet the requirements of those paragraphs, except such reassigned judges shall not be subject to the term of service requirements set forth in subsection (c); and

(B) the chief judge shall, within 30 days of emergency temporary

reassignment pursuant to subparagraph (A), submit a report to the President and Congress describing—

(i) the nature of the emergency;

(ii) how the emergency was addressed, including which judges were reassigned; and

(iii) whether and why an increase in the number of Family Court judges authorized in subsection (a)(1) may be necessary to serve the needs of families and children in the District of Columbia.

(3) *Composition.* — The total number of judges on the Superior Court may exceed the limit on such judges specified in § 11-903 to the extent necessary to maintain the requirements of this subsection if—

(A) the number of judges serving on the Family Court is less than 15; and

(B) the Chief Judge of the Superior Court—

(i) is unable to secure a volunteer judge who is sitting on the Superior Court outside of the Family Court for reassignment to the Family Court;

(ii) obtains approval of the Joint Committee on Judicial Administration; and

(iii) reports to Congress regarding the circumstances that gave rise to the necessity to exceed the cap.

(b) *Qualifications.* — The chief judge may not assign an individual to serve on the Family Court of the Superior Court or handle a Family Court case unless—

(1) the individual has training or expertise in family law;

(2) the individual certifies to the chief judge that the individual intends to serve the full term of service, except that this paragraph shall not apply with respect to individuals serving as senior judges under § 11-1504, individuals serving as temporary judges under § 11-908, and any other judge serving in another division of the Superior Court who is reassigned on an emergency temporary basis pursuant to subsection (a)(2);

(3) the individual certifies to the chief judge that the individual will participate in the ongoing training programs carried out for judges of the Family Court under § 11-1104(c); and

(4) the individual meets the requirements of section 433 of the District of Columbia Home Rule Act [D.C. Official Code § 1-204.33].

(c) *Term of service.* —

(1) *In general.* — Except as provided in paragraph (2), an individual assigned to serve as a judge of the Family Court of the Superior Court shall serve for a term of 3 years.

(2) *Special rule for judges serving on Superior Court the date of the enactment of the District of Columbia Family Court Act of 2001 [January 8, 2002].* —

(A) *In general.* — An individual assigned to serve as a judge of the Family Court of the Superior Court who is serving as a judge of the Superior Court on the date of the enactment of the District of Columbia Family Court Act of 2001 [January 8, 2002], shall serve for a term of not fewer than 3 years.

(B) *Reduction of period for judges serving in Family Division.* — In the case of a judge of the Superior Court who is serving as a judge in the Family

Division of the Court on the date of the enactment of the District of Columbia Family Court Act of 2001 [January 8, 2002], the 3-year term applicable under subparagraph (A) of this paragraph shall be reduced by the length of any period of consecutive service as a judge in such Division immediately preceding the date of the enactment of such Act [January 8, 2002].

(3) *Assignment for additional service.* — After the term of service of a judge of the Family Court (as described in paragraph (1)) expires, at the judge's request and with the approval of the chief judge, the judge may be assigned for additional service on the Family Court for a period of such duration (consistent with section 431(c) of the District of Columbia Home Rule Act [§ 1-204.31(c)]) as the chief judge may provide.

(4) *Permitting service on Family Court for entire term.* — At the request of the judge and with the approval of the chief judge, a judge may serve as a judge of the Family Court for the judge's entire term of service as a judge of the Superior Court under section 431(c) of the District of Columbia Home Rule Act [§ 1-204.31(c)].

(d) *Reassignment to other divisions.* — The chief judge may reassign a judge of the Family Court to any division of the Superior Court if the chief judge determines that in the interest of justice the judge is unable to continue serving in the Family Court.

(Jan. 8, 2002, 115 Stat. 2101, Pub. L. 107-114, § 3(a); Aug. 2, 2002, 116 Stat. 847, Pub. L. 107-206, § 406; Dec. 12, 2012, 126 Stat. 1611, Pub. L. 112-229, § 4(a).)

Section references. — This section is referenced in § 11-908.

Effect of amendments.

The 2012 amendment by Pub. L. 112-229 substituted "3 years" for "5 years" in (c)(1).

Editor's notes.

Section 4(b) of Pub. L. 112-229 provided that the amendment made by subsection (a) shall apply with respect to any individual serving as a judge on the Family Court of the Superior Court of the District of Columbia on or after the date of the enactment of the Act [Dec. 12, 2012].

Subchapter II. Jurisdiction.

§ 11-921. Civil jurisdiction.

Section references. — This section is referenced in § 2-411, § 11-501, and § 16-601.

CASE NOTES

ANALYSIS

Condemnation.
Court of general jurisdiction.

Condemnation.

Property owner's allegation that city council authorized an illegal exercise of eminent domain under false pretext did not deprive trial court of subject-matter jurisdiction over condemnation proceeding. Franco v. District of Columbia, 39 A.3d 890, 2012 D.C. App. LEXIS 125 (2012).

Court of general jurisdiction.

Police lieutenant's claim for non-chargeable sick leave under the District of Columbia Comprehensive Merit and Personnel Act fell within the selection-or-tenure exception to contested cases under the District of Columbia Administrative Procedure Act, the superior court properly reviewed the District of Columbia Metro-

politan Police Department's denial of the lieutenant's request as an exercise of its general jurisdiction, and the appellate court had jurisdiction to review the superior court's resolution of her claim. Nunnally v. D.C. Metro. Police Dep't, 80 A.3d 1004, 2013 D.C. App. LEXIS 794 (2013).

Subchapter III. Miscellaneous Provisions.

§ 11-946. Rules of court.

Section references. — This section is referenced in § 16-701.

LAW REVIEWS AND JOURNAL COMMENTARIES

Pre-trial Discovery Of Witness Lists: A Modest Proposal To Improve The Administration Of Criminal Justice In The Superior Court Of The District Of Columbia, 38 Catholic University Law Review 641.

§ 11-947. Emergency authority to toll or delay proceedings.

(a) *Tolling or Delaying Proceedings.* —

(1) *In general.* — In the event of a natural disaster or other emergency situation requiring the closure of Superior Court or rendering it impracticable for the United States or District of Columbia Government or a class of litigants to comply with deadlines imposed by any Federal or District of Columbia law or rule that applies in the Superior Court, the chief judge of the Superior Court may exercise emergency authority in accordance with this section.

(2) *Scope of authority.* —

(A) The chief judge may enter such order or orders as may be appropriate to delay, toll, or otherwise grant relief from the time deadlines imposed by otherwise applicable laws or rules for such period as may be appropriate for any class of cases pending or thereafter filed in the Superior Court.

(B) The authority conferred by this section extends to all laws and rules affecting criminal and juvenile proceedings (including, pre-arrest, post-arrest, pretrial, trial, and post-trial procedures) and civil, family, domestic violence, probate and tax proceedings.

(3) *Unavailability of chief judge.* — If the chief judge of the Superior Court is absent or disabled, the authority conferred by this section may be exercised by the judge designated under section 11-907(a) or by the Joint Committee on Judicial Administration.

(4) *Habeas corpus unaffected.* — Nothing in this section shall be construed to authorize suspension of the writ of habeas corpus.

(b) *Criminal Cases.* — In exercising the authority under this section for criminal cases, the chief judge shall consider the ability of the United States or District of Columbia Government to investigate, litigate, and process defendants during and after the emergency situation, as well as the ability of criminal defendants as a class to prepare their defenses.

(c) *Issuance of Orders.* — The United States Attorney for the District of Columbia or the Attorney General for the District of Columbia or the designee

of either may request issuance of an order under this section, or the chief judge may act on his or her own motion.

(d) *Duration of Orders.* — An order entered under this section may not toll or extend a time deadline for a period of more than 14 days, except that if the chief judge determines that an emergency situation requires additional extensions of the period during which deadlines are tolled or extended, the chief judge may, with the consent of the Joint Committee on Judicial Administration, enter additional orders under this section in order to further toll or extend such time deadline.

(e) *Notice.* — Upon issuing an order under this section, the chief judge—

(1) shall make all reasonable efforts to publicize the order, including, when possible, announcing the order on the District of Columbia Courts Web site; and

(2) shall send notice of the order, including the reasons for the issuance of the order, to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform of the House of Representatives.

(f) *Required Reports.* — Not later than 180 days after the expiration of the last extension or tolling of a time period made by the order or orders relating to an emergency situation, the chief judge shall submit a brief report to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Joint Committee on Judicial Administration describing the orders, including—

(1) the reasons for issuing the orders;

(2) the duration of the orders;

(3) the effects of the orders on litigants; and

(4) the costs to the court resulting from the orders.

(g) *Exceptions.* — The notice under subsection (e)(2) and the report under subsection (f) are not required in the case of an order that tolls or extends a time deadline for a period of less than 14 days.

(Dec. 12, 2012, 126 Stat. 1611, Pub. L. 112-229, § 2(b)(1)(A).)

CHAPTER 11. FAMILY COURT OF THE SUPERIOR COURT.

§ 11-1101. Jurisdiction of the Family Court.

Section references. — This section is referenced in § 11-741, § 11-902, § 11-944, § 11-1104, § 11-1732, § 11-1732A, § 16-924, § 16-2305, § 16-2331, § 16-2332, § 16-2341, § 16-2343, § 16-2344, § 16-2348, and § 46-206.

LAW REVIEWS AND JOURNAL COMMENTARIES

The District Of Columbia's Joint Custody Presumption: Misplaced Blame And Simplistic Solutions, 46 Catholic University Law Review 767.

§ 11-1104. Administration.

(a) *"One Family, One Judge" Requirement for Cases and Proceedings.* — To the greatest extent practicable, feasible, and lawful, if an individual who is a party to an action or proceeding assigned to the Family Court has an immediate family or household member who is a party to another action or proceeding assigned to the Family Court, the individual's action or proceeding shall be assigned to the same judge or magistrate judge to whom the immediate family member's action or proceeding is assigned.

(b) *Retention of Jurisdiction Over Cases.* —

(1) *In general.* — In addition to the requirement of subsection (a), any action or proceeding assigned to the Family Court of the Superior Court shall remain under the jurisdiction of the Family Court until the action or proceeding is finally disposed, except as provided in paragraph (2) (D).

(2) *One family, one judge.* —

(A) *For the duration.* — An action or proceeding assigned pursuant to this subsection shall remain with the judge or magistrate judge in the Family Court to whom the action or proceeding is assigned for the duration of the action or proceeding to the greatest extent practicable, feasible, and lawful, subject to subparagraph (2) (C).

(B) *All cases involving an individual.* — If an individual who is a party to an action or proceeding assigned to the Family Court becomes a party to another action or proceeding assigned to the Family Court, the individual's subsequent action or proceeding shall be assigned to the same judge or magistrate judge to whom the individual's initial action or proceeding is assigned to the greatest extent practicable and feasible.

(C) *Family Court case retention.* — If the full term of a Family Court judge to whom the action or proceeding is assigned is completed prior to the final disposition of the action or proceeding, the presiding judge of the Family Court shall ensure that the matter or proceeding is reassigned to a judge serving on the Family Court.

(D) *Exception.* — A judge whose full term on the Family Court is completed but who remains in Superior Court may retain the case or proceeding for not more than 6 months or, in extraordinary circumstances, for not more than 12 months after ceasing to serve if —

(i) the case remains at all times in full compliance with Public Law 105-89, if applicable; and

(ii) if Public Law 105-89 is applicable, the chief judge determines, in consultation with the presiding judge of the Family Court, based on the record in the case and any unique expertise, training or knowledge of the case that the judge might have, that permitting the judge to retain the case would lead to permanent placement of the child more quickly than reassignment to a judge in the Family Court.

(3) *Standards of judicial ethics.* — The actions of a judge or magistrate judge in retaining an action or proceeding under this paragraph shall be subject to applicable standards of judicial ethics.

(c) *Training Program.* —

(1) *In general.* — The chief judge, in consultation with the presiding judge of the Family Court, shall carry out an ongoing program to provide training in family law and related matters for judges of the Family Court and other judges of the Superior Court who are assigned Family Court cases, including magistrate judges, attorneys who practice in the Family Court, and appropriate nonjudicial personnel, and shall include in the program information and instruction regarding the following:

(A) Child development.

(B) Family dynamics, including domestic violence.

(C) Relevant Federal and District of Columbia laws.

(D) Permanency planning principles and practices.

(E) Recognizing the risk factors for child abuse.

(F) Any other matters the presiding judge considers appropriate.

(2) *Use of cross-training.* — The program carried out under this section shall use the resources of lawyers and legal professionals, social workers, and experts in the field of child development and other related fields.

(d) *Accessibility of Materials, Services, and Proceedings; Promotion of "Family-Friendly" Environment.* —

(1) *In general.* — To the greatest extent practicable, the chief judge and the presiding judge of the Family Court shall ensure that the materials and services provided by the Family Court are understandable and accessible to the individuals and families served by the Family Court, and that the Family Court carries out its duties in a manner which reflects the special needs of families with children.

(2) *Location of proceedings.* — To the maximum extent feasible, safe, and practicable, cases and proceedings in the Family Court shall be conducted at locations readily accessible to the parties involved.

(e) *Integrated Computerized Case Tracking and Management System.* — The Executive Officer of the District of Columbia courts under § 11-1703 shall work with the chief judge of the Superior Court—

(1) to ensure that all records and materials of cases and proceedings in the Family Court are stored and maintained in electronic format accessible by computers for the use of judges, magistrate judges, and nonjudicial personnel of the Family Court, and for the use of other appropriate offices of the District government in accordance with the plan for integrating computer systems prepared by the Mayor of the District of Columbia under section 4(b) [4(c)] of the District of Columbia Family Court Act of 2001 [§ 11-1101, note];

(2) to establish and operate an electronic tracking and management system for cases and proceedings in the Family Court for the use of judges and nonjudicial personnel of the Family Court, using the records and materials stored and maintained pursuant to paragraph (1); and

(3) to expand such system to cover all divisions of the Superior Court as soon as practicable.

(Jan. 8, 2002, 115 Stat. 2108, Pub. L. 107-114, § 4(a).)

Section references. — This section is referenced in § 11-908A and § 11-1106.

References in text. — Section 4(b) [4(c)] of the District of Columbia Family Court Act of 2001, referred to in paragraph (e)(1), is classified to § 11-721.

CHAPTER 17. ADMINISTRATION OF DISTRICT OF COLUMBIA COURTS.

Subchapter III. Duties and Responsibilities

Subchapter II. Court Personnel.

§ 11-1722. Director of Social Services.

Section references. — This section is referenced in § 16-2337.

LAW REVIEWS AND JOURNAL COMMENTARIES

"The Unnecessary Detention of Children in the District of Columbia—Pre-initial hearing detention: Are the Police Department and Social Services intake following the law?." 3 The District of Columbia Law Review 193 (1995).

§ 11-1732. Magistrate judges.

Section references. — This section is referenced in § 11-1732A.

CASE NOTES

Review.

Mother's motion for review of a neglect finding by the Superior Court was untimely under D.C. Super. Ct. Fam. Div. R. D(e) because, although the motion was filed within 10 business days after the magistrate issued written findings of fact and conclusions of law, it was filed more than three months after the magistrate's disposition order was entered; pursuant to D.C. Code § 11-1732(k), the mother's attack on the neglect finding was not properly before the appellate court. In re Na.H., 65 A.3d 111, 2013 D.C. App. LEXIS 247 (2013).

LAW REVIEWS AND JOURNAL COMMENTARIES

The District Of Columbia's Introduction Of Hearing Commissioners Into An Overburdened Judicial System, 33 Howard Law Journal 383.

§ 11-1732A. Special rules for magistrate judges of the Family Court of the Superior Court and the Domestic Violence Unit.

Section references. — This section is referenced in § 11-1732.

CASE NOTES

Review.

Mother's motion for review of a neglect finding by the Superior Court was untimely under D.C. Super. Ct. Fam. Div. R. D(e) because, although the motion was filed within 10 business days after the magistrate issued written findings of fact and conclusions of law, it was filed more than three months after the magistrate's disposition order was entered; pursuant to D.C. Code § 11-1732(k), the mother's attack on the neglect finding was not properly before the appellate court. In re Na.H., 65 A.3d 111, 2013 D.C. App. LEXIS 247 (2013).

Subchapter III. Duties and Responsibilities.

§ 11-1742. Property and disbursement.

(a) The Executive Officer shall be responsible, subject to the supervision of the Joint Committee, for the management of such buildings and space as may be assigned to the courts and shall maintain liaison with the appropriate Federal and District of Columbia officials with respect thereto.

(b) The Executive Officer shall be responsible for the procurement of necessary equipment, supplies, and services for the courts and shall have power, subject to applicable law, to reimburse the District of Columbia government for services provided and to contract for such equipment, supplies, and services as may be necessary.

(c) The Executive Officer shall serve as disbursing officer and payroll officer of the District of Columbia courts and shall assign and distribute necessary equipment and supplies.

(d) To prevent duplication and to promote efficiency and economy, the Executive Officer may enter into agreements to provide the Mayor of the District of Columbia with equipment, supplies, and services and credit reimbursements received from the Mayor for such equipment, supplies, and services to the appropriation of the District of Columbia Courts against which they were charged.

(July 29, 1970, 84 Stat. 513, Pub. L. 91-358, title I, § 111; Dec. 7, 1970, 84 Stat. 1390, Pub. L. 91-530, § 2(a)(7); Aug. 5, 1997, 111 Stat. 752, Pub. L. 105-33, § 11242(d); Dec. 12, 2012, 126 Stat. 1611, Pub. L. 112-229, § 2(c)(1).)

Effect of amendments. — The 2012 amendment by Pub. L. 112-229 added (d).

Editor's notes. — Section 2(c)(2) of Pub. L. 112-229 provided that the amendment made by Pub. L. 112-229, § 2(c)(1).shall apply with respect to fiscal year 2010 and each succeeding fiscal year.

CHAPTER 19. JURIES AND JURORS.

§ 11-1902. Definitions.

LAW REVIEWS AND JOURNAL COMMENTARIES

A Fair Cross Section and Distinctiveness in the Jury Selection Plan for the District of Columbia. 32 Cath.U.L.Rev., 985, (1983).

CHAPTER 25. ATTORNEYS.

§ 11-2501. Admission to bar; regulations; prior admission.

Section references. — This section is referenced in § 47-2805.02 and § 47-2853.04.

CASE NOTES

Construction.

Based on D.C. Code § 11-2501(a), the District of Columbia Court of Appeals considers D.C. Bar R. XI, § 10 as both a means of implementing D.C. Code § 11-2503(a) and a rule adopted in the exercise of the Court's general authority to govern the Bar. In re Wilde, 68 A.3d 749, 2013 D.C. App. LEXIS 374 (2013).

§ 11-2502. Censure, suspension, or disbarment for cause.

LAW REVIEWS AND JOURNAL COMMENTARIES

No Stone Left Unturned: The Failure of Attorney Self-Regulation in the District of Columbia. Michael S. Frisch, 18 Geo. J. Legal Ethics 325 (2005).

§ 11-2503. Disbarment upon conviction of crime; procedure for censure, suspension, or disbarment.

CASE NOTES

ANALYSIS

Construction and application.
Determination of penalty.
Foreign convictions.
Offenses involving moral turpitude.
—Extortion, offenses involving moral turpitude.
—Forgery and fraud offenses, offenses involving moral turpitude.
—Witness tampering, offenses involving moral turpitude.

Construction and application.

Based on D.C. Code § 11-2501(a), the District of Columbia Court of Appeals considers D.C. Bar R. XI, § 10 as both a means of implementing D.C. Code § 11-2503(a) and a rule adopted in the exercise of the Court's general authority to govern the Bar. In re Wilde, 68 A.3d 749, 2013 D.C. App. LEXIS 374 (2013).

Determination of penalty.

For purposes of attorney disciplinary proceedings, fact that attorney pled guilty to attempted rather than completed crimes involving moral turpitude did not warrant consideration of any sanction less than mandatory disbarment, as same requisite intent, as well as proof that he undertook substantial steps toward commission of crimes of which he was convicted, was necessary for conviction. In

re Johnson, 48 A.3d 170, 2012 D.C. App. LEXIS 316 (2012).

Foreign convictions.

Attorney who was convicted of a crime in South Korea was not found guilty of a crime within the meaning of D.C. Code § 11-2503(a) and D.C. Bar R. XI, § 10, as it was determined that § 10 did not apply to convictions from courts of foreign nations and did not automatically require a conclusive effect pursuant to collateral estoppel, based on the lack of specific provisions on that issue. In re Wilde, 68 A.3d 749, 2013 D.C. App. LEXIS 374 (2013).

Offenses involving moral turpitude.

— Extortion, offenses involving moral turpitude.

Attorney's conviction of extortion under the color of official right involved crime of moral turpitude per se, warranting disbarment; essence of offense, a public official obtaining payment to which he was not entitled, knowing that payment was made in return for official acts, involved baseness, vileness, or depravity in the private and social duties owed to attorney's fellow men or to society in general, and offense clearly required intentional dishonesty for personal gain. In re Johnson, 48 A.3d 170, 2012 D.C. App. LEXIS 316 (2012).

— Forgery and fraud offenses, offenses involving moral turpitude.

Disbarment of attorney who pled guilty to felony offense of knowingly and fraudulently making a false oath and account in relation to a bankruptcy petition was mandatory; crime of bankruptcy fraud inherently involved moral turpitude. In re Zodrow, 43 A.3d 943, 2012 D.C. App. LEXIS 164 (2012).

— Witness tampering, offenses involving moral turpitude.

Attorney's conviction of witness and evidence tampering involved crime of moral turpitude per se, warranting disbarment; essence of offense, purposefully destroying or concealing evidence, or attempting to do so, was contrary to justice and grave threat to due process of law. In re Johnson, 48 A.3d 170, 2012 D.C. App. LEXIS 316 (2012).

For purposes of attorney disciplinary proceeding, offense of witness tampering constituted offense of moral turpitude per se; conviction required proof of the knowing or intentional interference with the enforcement of law. In re Blair, 40 A.3d 883, 2012 D.C. App. LEXIS 281 (2012).

LAW REVIEWS AND JOURNAL COMMENTARIES

Disbarment or Banishment? 32 Cath.U.L.Rev. 1038, (1983).

Disciplinary Action Against Attorneys for Crimes of Moral Turpitude. 31 How.L.J. 313 (1988).

No Stone Left Unturned: The Failure of Attorney Self-Regulation in the District of Columbia. Michael S. Frisch, 18 Geo. J. Legal Ethics 325 (2005).

TITLE 12. RIGHT TO REMEDY.

Chapter
3. Limitation of Actions.

Chapter 1. Abatement and Revivor.

§ 12-101. Survival of rights of action.

CASE NOTES

Analysis

Construction with other law.
Persons entitled to sue.
Practice and procedure, generally.

Construction with other law.

The survival act (D.C. Code § 12-101) proceeds upon a different theory and foundation from a wrongful death act (D.C. Code § 16-2701) case. It recognizes that liability to the victim should not be extinguished by the fortuitous event of death; the action provided for by the survival statute, therefore, does not arise from the death but from the injury itself. Flythe v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 160025 (D.D.C. Nov. 8, 2013), amended by 2014 U.S. Dist. LEXIS 29401 (D.D.C. Mar. 7, 2014).

Persons entitled to sue.

Estate could maintain a survival action based on an assault against a police officer because had the decedent lived, he would have been able to maintain that cause of action against the officer; the rights of action which decedent would have had if he had lived are preserved and recovery is restricted to what decedent would have recovered for the tort had death not intervened. Flythe v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 160025 (D.D.C. Nov. 8, 2013), amended by 2014 U.S. Dist. LEXIS 29401 (D.D.C. Mar. 7, 2014).

Practice and procedure, generally.

District's motion to dismiss plaintiff's wrongful death and survival act claims was granted; the wrongful death act and survival claims statute did not provide any substantive rights, but simply established the procedural methods for filing suit. Buruca v. District of Columbia, 902 F. Supp. 2d 75, 2012 U.S. Dist. LEXIS 158587 (D.D.C. Nov. 6, 2012).

Chapter 3. Limitation of Actions.

Sec.
12-311. Actions arising out of death or injury caused by exposure to asbestos.

§ 12-301. Limitation of time for bringing actions.

Section references. — This section is referenced in § 8-634.10, § 12-308, and § 28-3905.

CASE NOTES

Analysis

Consumer protection, accrual of right of action or defense.
Emotional distress and negligence, accrual of right of action or defense.
—Labor and employment claims, accrual of right of action or defense.

Recovery of personal property, accrual of right of action or defense.
—Retaliation, accrual of right of action or defense.
—Torts in general, accrual of right of action or defense.
Conflicts of law.
Discovery of injury.
Equitable estoppel.
Federal civil rights actions.
Laches.
Breach of contract, limitation applicable to action.
—Contracts in general, limitation applicable to action.
—Fraud, limitation applicable to action.
—Labor and employment claims, limitation applicable to action.
—Landlord and tenant, limitation applicable to action.
—Legal malpractice, limitation applicable to action.
Pleadings.
Tolling.
Trust relationship.

Consumer protection, accrual of right of action or defense.

Borrower's claim of wrongful foreclosure brought under the D.C. Consumer Protection Procedures Act, D.C. Code § 28-3904 (2001), was time barred pursuant to D.C. Code § 12-301 because the claim accrued when the lender initiated foreclosure proceedings on February 13, 2009, and the borrower filed suit on March 21, 2009, which was more than three years after the claim accrued. Koker v. Aurora Loan Servicing, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 497 (D.D.C. Jan. 3, 2013).

Emotional distress and negligence, accrual of right of action or defense.

In a breach of contract case arising from the non-renewal of a scholarship in which a university and others moved to dismiss a student-athlete's claims pursuant to Fed. R. Civ. P. 12(b)(6), the student's claims for breach of the duty of good faith and fair dealing, fraud in the inducement, intentional infliction of emotional distress, and negligent infliction of emotional distress were barred by the three-year statute of limitations in D.C. Code. § 12-301(8). The statute of limitations for all of the claims began to run at the end of January 2007 when the student was informed that he could no longer wrestle and that his scholarship would not be renewed, and the complaint was not filed until June 29, 2010, six months after the deadline. Lopiccolo v. Am. Univ., 840 F. Supp. 2d 71, 2012 U.S. Dist. LEXIS 1300 (D.D.C. Jan. 5, 2012).

— Labor and employment claims, accrual of right of action or defense.

Claims by African-American members and officers of District of Columbia Fire and Emergency Medical Services (DCFEMS) appropriately arose under Civil Rights Act of 1991 where they alleged that District "interfered with the performance of an existing contract [and] denied the plaintiffs the benefits of their contract with the city," causing "a sever [sic] loss of pay and prestige," and fact they had to enforce their § 1981 claims through remedy outlined in § 1983 did not change effective statute of limitations period for cause of action from four to three years. Hamilton v. District of Columbia, 852 F.Supp.2d 139, 2012 U.S. Dist. LEXIS 47808 (2012).

District of Columbia's lulling doctrine applied to equitably toll the limitations periods, in former domestic employee's claims against former employers for unjust enrichment, breach of contract, and intentional infliction of emotional distress (IIED), until date that employee first contacted and began cooperating with FBI in criminal investigation against employers for human trafficking, where employee alleged that employers lulled her into inaction by exploiting her limited knowledge of English, misleading her about her rights under state law, confiscating her passport, and keeping her in isolation. Kiwanuka v. Bakilana, 844 F.Supp.2d 107, 2012 U.S. Dist. LEXIS 23093 (2012).

Recovery of personal property, accrual of right of action or defense.

While defendant Republic of Hungary argued plaintiff art collection owner's descendant's bailment claims accrued in 1999 when one descendant had filed suit in Hungary, which, according to Hungary, was prompted by its refusal to negotiate with that descendant and thus marked a clear repudiation of the alleged bailment agreements, nothing in the complaint indicated the claims did in fact accrue when that Hungarian lawsuit was filed, and for statute of limitations purposes, the critical point was that the complaint alleged that Hungary's refusal of the demand for the collection did not occur until 2008, when Hungary issued its final decision that it would not honor its obligation to return the collection to the descendants, and since the descendant's bailment claims were filed within 3 years of that alleged decision, the action was timely under D.C. Code § 12-301(2). De Csepel v. Republic of Hung., 714 F.3d 591, 2013 U.S. App. LEXIS 7837 (D.C. Cir. 2013).

— Retaliation, accrual of right of action or defense.

Even if a Bivens remedy existed under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub. L. No. 101-73, 103 Stat. 183, an attorney's Bivens claims for retaliation were barred under D.C. Code § 12-301(8) where he did not file the action within three years of having reason to believe that the federal officials' Office of the Comptroller of the

Currency action against him was in retaliation for his previous complaints related to the officials' racial comments. Loumiet v. United States, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 130286 (D.D.C. Sept. 12, 2013).

— Torts in general, accrual of right of action or defense.

Employee's claims for breach of an implied contract, wrongful termination, and intentional infliction of emotional distress were time-barred because the employee's claimed injuries were readily apparent no later than the day she was fired, January 24, 2008. Peart v. Latham & Watkins LLP, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 152115 (D.D.C. Oct. 23, 2013).

Conflicts of law.

Because § 1983 and the statute providing for recovery for neglect to prevent wrongs which a person knows are conspired to be performed do not have any built-in statute of limitations, courts in the District of Columbia apply the three-year statute of limitations imposed by D.C. law. Philogene v. District of Columbia, 2012 WL 1893580 (2012).

Discovery of injury.

Where a borrower's claim of wrongful foreclosure brought under the D.C. Consumer Protection Procedures Act, D.C. Code § 28-3904 (2001), was time-barred pursuant to D.C. Code § 12-301, the discovery rule was inapplicable because the fact of the borrower's injury was readily determined since the injury was based on initiation of foreclosure proceedings and thus, the claim accrued when the injury actually occurred. Koker v. Aurora Loan Servicing, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 497 (D.D.C. Jan. 3, 2013).

Equitable estoppel.

Where a borrower's claim of wrongful foreclosure brought under the D.C. Consumer Protection Procedures Act, D.C. Code § 28-3904 (2001), was time-barred pursuant to D.C. Code § 12-301, equitable estopped was inapplicable because the allegations of the complaint indicated that the borrower had all the facts necessary to bring her claim when the foreclosure proceedings were initiated. Koker v. Aurora Loan Servicing, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 497 (D.D.C. Jan. 3, 2013).

Federal civil rights actions.

Even if Vienna Convention on Consular Relations art. 36(1)(b), Apr. 24, 1963, 21 U.S.T. 77, 596 U.N.T.S. 261 created rights that were enforceable under 42 U.S.C.S. § 1983, a matter that the court of appeals did not decide, a claim that the District of Columbia failed to notify a prisoner of his consular access rights was untimely under D.C. Code § 12-301(8). The alleged violation was immediately actionable upon the prisoner's arrest, and no continuing violation was shown; even if the District had a continuing duty to notify, that duty ceased when the prisoner escaped from District custody. Earle v. District of Columbia, 707 F.3d 299, 2012 U.S. App. LEXIS 26550 (D.C. Cir. 2012).

Laches.

Finding in favor of the patient in her medical-malpractice action against the doctor was appropriate because the line between legal and equitable claims vis-a-vis laches was still sound, and the appellate court declined to disturb it. In cases at law, where the legislature has determined through a statute of limitations that the door for bringing suit should remain open for a predetermined period of time, it should not be left to a judge's discretion to close that door early. Naccache v. Taylor, 72 A.3d 149, 2013 D.C. App. LEXIS 420 (2013).

Breach of contract, limitation applicable to action.

In a breach of contract case arising from the non-renewal of a scholarship in which a university and others moved to dismiss a student-athlete's claim pursuant to Fed. R. Civ. P. 12(b)(6), the student's breach of contract claim was barred by the three-year statute of limitations in D.C. Code. § 12-301(7). The statute of limitations for his breach of contract claim began to run at the end of January 2007 when the student was informed that he could no longer wrestle and that his scholarship would not be renewed, and the complaint was not filed until June 29, 2010, six months after the deadline. Lopiccolo v. Am. Univ., 840 F. Supp. 2d 71, 2012 U.S. Dist. LEXIS 1300 (D.D.C. Jan. 5, 2012).

Plaintiff's claim for breach of contract, which was filed more than three years after the maturation of the note, was barred by the statute of limitations. Bakeir v. Capital City Mortg. Corp., — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 28745 (D.D.C. Mar. 4, 2013).

— Contracts in general, limitation applicable to action.

Under District of Columbia law, university student's claims against university and university officials for breach of contract, breach of the duty of good faith and fair dealing, fraud in the inducement, intentional infliction of emotional distress, and negligent infliction of emotional distress, in connection with the non-renewal of his full wrestling scholarship, accrued, for limitations purposes, on date that student received letter informing him that his scholarship would not be renewed and that he had been removed from the wrestling team, rather than when his appeals to the university were denied. Lopiccolo v. Am. Univ., 840 F.Supp.2d 71, 2012 U.S. Dist. LEXIS 1300 (2012).

When a professor was denied tenure by a university, the professor's breach-of-contract claim was barred by the statute of limitations in D.C. Code § 12-301(7) because, with respect to the university's alleged failure to evaluate the professor and to provide the professor with specific tenure criteria, the university's latest failure to evaluate the professor would have occurred outside the three-year limitations period. The statute of limitations did not begin to run, as the professor contended, only after the university denied the professor's tenure application. Wright v. Howard Univ., 60 A.3d 749, 2013 D.C. App. LEXIS 39 (2013).

— Fraud, limitation applicable to action.

Borrower knew or had reason to know of forged signature on loan application when she received loan that resulted from application, thereby triggering three-year statute of limitations, under District of Columbia law, for borrower to bring fraud claim against mortgage brokerage and its broker. Pricer v. Deutsche Bank, 842 F.Supp.2d 162, 2012 U.S. Dist. LEXIS 13509 (2012).

Because there was a strong argument that plaintiff share buyers were aware, at the latest, of the financial difficulties that led to a company's demise on February 27, 2008, when the company issued the annual report for the year ending December 31, 2007, and plaintiffs did not file their claims until June 2011, their common law fraud claims were likely time-barred by D.C. Code § 12-301(8). Phelps v. Stomber, 883 F. Supp. 2d 188, 2012 U.S. Dist. LEXIS 113186 (D.D.C. Aug. 13, 2012).

— Labor and employment claims, limitation applicable to action.

Appropriate statute of limitations for former District of Columbia (DC) employee's disability discrimination claims against DC under Rehabilitation Act, which did not specify the applicable limitations period, was the one-year limitations period set out in District of Columbia's Human Rights Act (HRA) for claims of unlawful discrimination, as opposed to default choice of DC's three-year limitations period for personal injury claims; a Rehabilitation Act claim was far more similar to an HRA claim than it was to an ordinary personal injury claim, and borrowing HRA's limitations period would not stymie policies underlying Rehabilitation Act. Jaiyeola v. District of Columbia, 40 A.3d 356, 2012 D.C. App. LEXIS 135 (2012).

— Landlord and tenant, limitation applicable to action.

As tenants' alleged injury occurred at the time they became customers of a rental management company, and therefore could not be considered latent, the discovery rule did not extend the statute of limitations set forth in D.C. Code § 12-301(7)-(8) and the claims were thus time-barred. Chaney v. Capitol Park Assocs., — WLR —, 2013 D.C. Super. LEXIS 2 (Mar. 11, 2013).

— Legal malpractice, limitation applicable to action.

Additional discovery was warranted prior to ruling on motions for summary judgment filed by law firms and attorneys in legal malpractice action asserting that clients' claims based on their failure to file translation of their patent application were barred by statute of limitations, where clients claimed that did not have any knowledge of any injury resulting from attorneys' failure to file until, at earliest, date on which Federal Circuit denied their petition for panel rehearing, and parties had yet to engage in discovery. Seed Co. v. Westerman, 840 F.Supp.2d 116, 2012 U.S. Dist. LEXIS 1222 (2012).

In a legal malpractice case in which the attorneys and the law firms filed motions for summary judgment, arguing that the clients' claims were time-barred, the statute of limitations for legal malpractice claims in the District of Columbia was three years from the time that the right to maintain the cause of action accrued. The parties had yet to engage in discovery, and, given the factual ambiguities surrounding the commencement of the statute of limitations, a period of discovery was warranted prior to ruling on defendants' motions. Seed Co. v. Westerman, 840 F. Supp. 2d 116, 2012 U.S. Dist. LEXIS 1222 (D.D.C. Jan. 5, 2012).

Pleadings.

Attorney's counterclaim against the Nigerian Embassy sufficiently pleaded facts that would support a continuing contract between the attorney and the Embassy, so that the Embassy's motion to dismiss the counterclaim on the basis of the statute of limitations was denied. Embassy of the Fed. Republic of Nig. v. Ugwuonye, 901 F. Supp. 2d 136, 2012 U.S. Dist. LEXIS 157992 (D.D.C. Nov. 5, 2012).

Tolling.

Dismissal with prejudice of juvenile plaintiffs' common law claims, under District of Columbia law, arising from police officers' alleged use of batons against the plaintiffs, was not warranted; although plaintiffs erroneously conceded that the juveniles' claims were time-barred, the limitations period for those claims was tolled until juveniles reached age of majority, so that dismissal without prejudice was appropriate. Rudder v. Williams, 666 F.3d 790, 2012 U.S. App. LEXIS 910 (C.A.D.C. 2012).

Trust relationship.

Church's counterclaim for breach of trust was barred by D.C. Code § 12-301(8) because the actions at issue took place between the years of

1977 and 1992; 1992 was nearly 20 years prior to the filing of the lawsuit at issue. Family Fed'n for World Peace And Unification v. Hyun Ji n Moon, — WLR —, 2013 D.C. Super. LEXIS 10 (Oct. 28, 2013).

LAW REVIEWS AND JOURNAL COMMENTARIES

A Fistful Of Lawsuits: The Press, The First Amendment, and Section 43(A) Of The Lanham Act, 88 California Law Review 127.

Case Law Developments, 18 Mental & Physical Disability Law Reporter 486.

Wilson v. Johns-Manville Sales Corp. and Statutes of Limitations in Latent Injury Litigation: An Equitable Expansion of the Discovery Rule. 32 Cath.U.L.Rev.471 (1983).

§ 12-302. Disability of plaintiff.

Section references. — This section is referenced in § 12-308.

CASE NOTES

Infancy.

Dismissal with prejudice of juvenile plaintiffs' common law claims, under District of Columbia law, arising from police officers' alleged use of batons against the plaintiffs, was not warranted; although plaintiffs erroneously conceded that the juveniles' claims were time-barred, the limitations period for those claims was tolled until juveniles reached age of majority, so that dismissal without prejudice was appropriate. Rudder v. Williams, 666 F.3d 790, 2012 U.S. App. LEXIS 910 (C.A.D.C. 2012).

Finding in favor of the patient in her medical-malpractice action against the doctor regarding her now-grown son was appropriate because the line between legal and equitable claims vis-a-vis laches was still sound, and the appellate court declined to disturb it. In cases at law, where the legislature has determined through a statute of limitations that the door for bringing suit should remain open for a predetermined period of time, it should not be left to a judge's discretion to close that door early. Naccache v. Taylor, 72 A.3d 149, 2013 D.C. App. LEXIS 420 (2013).

LAW REVIEWS AND JOURNAL COMMENTARIES

Practice And Pleadings, 31 Catholic University Law Review 841.

§ 12-309. Actions against District of Columbia for unliquidated damages; time for notice.

Section references. — This section is referenced in § 1-615.54, § 2-413, and § 2-424.

CASE NOTES

ANALYSIS

Accrual of claim.

District of Columbia (DC) did not waive affirmative defenses, based on notice requirements and statutes of limitations, to former employee's disability discrimination claims under Rehabilitation Act and DC's Human Rights Act (HRA) by failing to assert either defense in answer to amended complaint and instead waiting two years before raising defenses for the first time in DC's summary judgment motion; employee had and exercised a full and fair

opportunity to respond to DC's tardy invocation of those defenses and was therefore not prejudiced. Jaiyeola v. District of Columbia, 40 A.3d 356, 2012 D.C. App. LEXIS 135 (2012).

Contents of notice.

— Cause and circumstances, contents of notice.

Cause element for report written by Metropolitan Police Department (MPD) to satisfy statutory notice requirement requires that written notice or police report disclose both factual cause of injury and reasonable basis for anticipating legal action as consequence, and even if report does not assert right to recovery, it will suffice if it describes injuring event with sufficient detail to reveal, in itself, basis for District's potential liability; circumstances prong is satisfied if there is enough information for District to conduct prompt, properly focused investigation of claim. Jones v. District of Columbia, 2012 WL 3024970 (2012).

— Sufficiency generally, contents of notice.

While lesbian officers' reports filed with Metropolitan Police Department (MPD), MPD Medical Service Division memoranda written in response to reports, and Internal Affairs Division (IAD) investigative records created in response to officers' internal EEO complaints qualified as reports "in regular course of duty," content of those reports did not, individually or collectively, provide sufficient notice to Mayor of cause or circumstances underlying claims for unliquidated damages under District of Columbia Human Rights Act (DCHRA) based on sex discrimination and sexual orientation discrimination regarding officer's nonpromotion; however, officers could still seek liquidated damages, including back pay, under those counts. Jones v. District of Columbia, 2012 WL 3024970 (2012).

Former employee who sought nonliquidated damages for pain and suffering in disability discrimination claims against District of Columbia (DC) under DC's Human Rights Act (HRA) was not relieved from HRA's notice requirements on basis that he named the Public Service Commission (PSC), for which he had worked as pipeline safety engineer, as a defendant; Congress had not created the PSC as an entity separate and apart from the DC government or given the PSC the general power to sue or be sued in its own name. Jaiyeola v. District of Columbia, 40 A.3d 356, 2012 D.C. App. LEXIS 135 (2012).

Necessity of notice.

African-American members and officers of District of Columbia Fire and Emergency Medical Services (DCFEMS) were not exempt from statutory notice requirement for purposes of their claim for intentional infliction of emotional distress, a creation of D.C. common law. Hamilton v. District of Columbia, 852 F.Supp.2d 139, 2012 U.S. Dist. LEXIS 47808 (2012).

Compliance with D.C. Code § 12-309 is not a jurisdictional requirement. Maldonado v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 23503 (D.D.C. Feb. 21, 2013).

Notice not required.

Former probationary employee's suit for retaliatory discharge under the DC Human Rights Act was not barred by his failure to provide notice because D.C. Code § 12-309 applied only to claims for unliquidated damages and the employee only sought equitable relief. Mpoy v. Fenty, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 90960 (D.D.C. July 2, 2012).

In a former probationary employee's suit based on his allegedly retaliatory discharge, the employee's breach of contract claim was not barred by his failure to provide notice because D.C. Code § 12-309 applied only to claims for unliquidated damages, and thus, it only applied to actions sounding in tort. Mpoy v. Fenty, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 90960 (D.D.C. July 2, 2012).

In a former probationary employee's suit based on his allegedly retaliatory discharge, the employee's civil conspiracy claim was not barred by his failure to provide notice because D.C. Code § 12-309 applied only to claims against the District of Columbia and the conspiracy claim was only brought against individuals. Mpoy v. Fenty, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 90960 (D.D.C. July 2, 2012).

Police reports.

— Investigations by District, police reports.

Internal Affairs Division (IAD) report satisfied the D.C. Code § 12-309 requirement that the District of Columbia receive notice of plaintiff's claims before plaintiff filed a damage action because (1) the District did not dispute that the IAD report was prepared within six months of the incident; (2) the District did not dispute that the IAD report was a report created in the regular course of duty; and (3) the IAD report reflected the time, place, cause, and circumstances of plaintiff's alleged injury because the report gave the District sufficient detail to be put on notice that it might have been sued for assault and battery, false arrest and imprisonment, and intentional infliction of emotional distress, and the circumstances described in the report were sufficient to have allowed the District to conduct a prompt, properly focused investigation. Greene v. Shegan, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 62221 (D.D.C. May 1, 2013).

— Sufficiency generally, police reports.

District of Columbia did not dispute that plaintiff met the requirements of D.C. Code § 12-309 because an officer prepared a police report in November 2008 in the regular course of his duty with the Metropolitan Police Department which provided the District sufficient notice of the time, place, cause, and circumstances of the injury suffered by her daughter. Because police reports were an acceptable alternative to formal notice, and the District did not dispute that the report was sufficiently detailed to provide notice, the motion to dismiss failed. Gates v. United States, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 29093 (D.D.C. Mar. 5, 2013).

Review.

The Court of Appeals would review de novo, on former District of Columbia (DC) employee's appeal from summary judgment on his disability discrimination claims against DC, whether his claims were time-barred, whether statutory notice requirements prevented him from presenting claims under Human Rights Act (HRA) for liquidated damages, whether those notice requirements prevented him from suing Public Service Commission (PSC) of DC, as distinct from DC, and whether record supported DC's position that employee could not establish that he was disabled or regarded as disabled. Jaiyeola v. District of Columbia, 40 A.3d 356, 2012 D.C. App. LEXIS 135 (2012).

Sufficiency of evidence.

District of Columbia contended that, because the arrestee's notice letter did not specifically mention the claims of negligent supervision and negligent training, these claims failed for failure to comply with D.C. Code § 12-309; the arrestee's letter, however, stated that he might assert civil claims for assault, battery, false imprisonment, negligence and/or intentional infliction of emotional distress. The letter specifically listed negligence as a possible claim the arrestee would raise, and negligent supervision and negligent failure to train were both varieties of negligence that were reasonably likely to be alleged against the District arising out of the arrest by police officers as described in the arrestee's letter; though the letter did not specifically list negligent training or negligent supervision as potential causes of action, such precise exactness was not absolutely essential. Maldonado v. District of Columbia, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 23503 (D.D.C. Feb. 21, 2013).

Timeliness of notice generally.

Employees of District of Columbia Child and Family Services Agency failed to comply with statutory notice requirements for claims against District of Columbia, where employees notified Mayor's office of claims against Agency for violations of District of Columbia Human Rights Act after filing lawsuit. Peters v. District of Columbia, 2012 WL 1255139 (2012).

Student's common law claims against District of Columbia for negligent supervision, negligent hiring and retention, intentional infliction of emotional distress, and breach of fiduciary duty were barred by her failure to provide timely notice to District, compliance with which was mandatory prerequisite for everyone with tort claim against District of Columbia. Blue v. Dist. of Columbia, 850 F.Supp.2d 16, 2012 U.S. Dist. LEXIS 31460 (2012).

LAW REVIEWS AND JOURNAL COMMENTARIES

Practice And Pleadings, 31 Catholic University Law Review 841.

§ 12-310. Actions arising out of death or injury caused by defective or unsafe improvements to real property.

LAW REVIEWS AND JOURNAL COMMENTARIES

The District Of Columbia's Architects' And Builders' Statute Of Repose: Its Application And Need For Amendment. 34 Cath.U.L.Rev. 919,(1985)..

§ 12-311. Actions arising out of death or injury caused by exposure to asbestos.

(a) In any civil action for injury or illness based upon exposure to asbestos, the time for the commencement of the action shall be the later of the following:

(1) Within one year after the date the plaintiff first suffered disability;

(2) Within one year after the date the plaintiff either knew, or through the exercise of reasonable diligence should have known, that the disability was caused or contributed to by the exposure; or

(3) Three years from the time the right to maintain the action accrues.

(b) "Disability" as used in subsection (a) of this section means the loss of time from work as a result of the exposure that precludes the performance of the employee's regular occupation.

(c) In an action for the wrongful death of any plaintiff's decedent, based upon exposure to asbestos, the time for commencement of an action shall be the later of the following:

(1) Within 2 years from the date of the death of the plaintiff's decedent; or

(2) Within 2 years from the date the plaintiff first knew, or through the exercise of reasonable diligence should have known, that the death was caused or contributed to by the exposure.

(Feb. 28, 1987, D.C. Law 6-202, § 5, 34 DCR 527; June 3, 2011, D.C. Law 18-377, § 3, 58 DCR 1174; Oct. 22, 2012, D.C. Law 19-177, § 2, 59 DCR 9353.)

Effect of amendments.

The 2012 amendment by D.C. Law 19-177 substituted "2 years" for "one year" in (c)(1) and (c)(2).

Legislative history of Law 19-177. — Law 19-177, the "Wrongful Death Act of 2012," was introduced in Council and assigned Bill No. 19-717. The Bill was adopted on first and second readings on June 26, 2012, and July 10, 2012, respectively. Signed by the Mayor on July 25, 2012, it was assigned Act No. 19-416 and transmitted to Congress for its review. D.C. Law 19-177 became effective on Oct. 22, 2012.

TITLE 13. PROCEDURE GENERALLY.

Chapter 3. Process and Parties.

Subchapter II. Service of Process; Legal Representatives.

§ 13-334. Service on foreign corporations.

CASE NOTES

Analysis

Doing business in District.
—In general.
Jurisdiction.

Doing business in District.

— In general.

Nonresident pain pump manufacturer was "doing business" within District of Columbia, and its business contacts within District were "continuous and systematic," and thus District of Columbia district court had general personal jurisdiction over manufacturer under District of Columbia's long-arm statute in shoulder surgery patient's products liability action against manufacturer, where manufacturer had established and benefited from partnership with hospital in District, devoted entire sales region to sales in Washington, D.C., profited from sales of its pain pumps to Washington, D.C. hospitals, and obtained expert medical consulting services of Washington, D.C. medical facilities and physicians. Marshall v. I-Flow, LLC, 2012 WL 1372103 (2012).

Virginia-based competitor's actions did not constitute the kind of "continuous and systematic" business contact necessary to establish that it was "doing business" in the District of Columbia in such a manner that it would expect to be hauled into court in the District for its actions; competitor of restaurant chain conducted no business on or through its informational websites which were accessible from the District, and competitor's consideration of a possible business expansion into the District consisted of one isolated phone call. Marshall v. I-Flow, LLC, 2012 WL 1372103 (2012).

Jurisdiction.

Lender's parent corporation had no meaningful relationship with the District of Columbia, as required for exercise of general jurisdiction over the corporation, under the District of Columbia's long-arm statute, in borrower's putative class action asserting claims arising out of lender's sub-prime lending practices, where it was headquartered in Virginia and organized under Virginia law, all its substantive decisions, including financial transactions, were made in Virginia, substantially all of its activities were performed in Virginia, and it never maintained a place of business or office, owned any property, or maintained a registered agent in the District of Columbia. Khatib v. Alliance Bankshares Corp., 846 F.Supp.2d 18, 2012 U.S. Dist. LEXIS 27020 (2012).

CHAPTER 4. CIVIL JURISDICTION AND SERVICE OUTSIDE THE DISTRICT OF COLUMBIA.

Subchapter II. Bases of Personal Jurisdiction over Persons Outside the District of Columbia.

§ 13-422. Personal jurisdiction based upon enduring relationship.

CASE NOTES

ANALYSIS

Discovery.
Personal jurisdiction not found.

Discovery.

Under District of Columbia law, owner of copyright in adult film was not entitled to jurisdictional discovery to discover identities of 1,434 John Doe defendants who allegedly used torrent network to unlawfully download and upload film in violation of Copyright Act, absent showing that owner had good faith belief that any particular individual defendants were domiciled in District of Columbia. West Coast Prods. v. Doe, 280 F.R.D. 73, 2012 U.S. Dist. LEXIS 13511 (2012).

Personal jurisdiction not found.

Estate's unilateral choice to have defendant personal representatives (PR) send checks to a beneficiary's District of Columbia (D.C.) address was not purposeful availment of the privilege of conducting activities in D.C; the PRs were not subject to personal jurisdiction in D.C. under D.C. Code §§ 13-422, 13-423(a)(1), with regard to claims by plaintiff, the beneficiary's surviving spouse. Loreto v. Cushman, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 34530 (D.D.C. Mar. 12, 2013).

§ 13-423. Personal jurisdiction based upon conduct.

Section references. — This section is referenced in § 48-804.02.

CASE NOTES

ANALYSIS

Agents, generally.
Conspiracy.
Contracts to supply services.
—Attorneys, contracts to supply services.
Corporations.
—In general.
Dismissal of actions generally.
Due process, generally.
Establishing jurisdiction, generally.
Exceptions.
—Government contacts, exceptions.
General or specific jurisdiction.
Marital relationships.
Minimum contacts.
—In general.
Personal representative.
Transacting business.
—Establishing jurisdiction, transacting business.
—Extent of jurisdiction, transacting business.
—Minimum contacts generally, transacting business.
—Presence within District, transacting business.
—Purposeful conduct, transacting business.

Agents, generally.

The District Court for the District of Columbia lacked personal jurisdiction over Secretary of the Indiana Family and Social Services Administration, under either the Due Process Clause or the District of Columbia's long-arm statute, in pro se Medicare recipient's action challenging Medicare's failure to cover cost of her prescription medications; the Secretary was sued only in her official capacity as state official, she did not reside or transact business in the District of Columbia, and even if Secretary had a duty to administer federal funds allegedly owed to recipient, she did so in Indiana on behalf of an Indiana state agency for Indiana residents. Donnelly v. Sebelius, 851 F.Supp.2d 109, 2012 U.S. Dist. LEXIS 44343 (2012).

Conspiracy.

Buyer of company that produced test to

screen for Methicillin Resistant Staphylococcus aureus bacteria (MRSA) failed to plead conspiracy between selling shareholders and attorney with particularity, as required to establish conspiracy jurisdiction under District of Columbia's long-arm statute; beyond alleging that attorney represented selling shareholders, there were no facts or fair inferences from facts to support element of an agreement between parties to participate in an unlawful act. 3M Co. v. Boulter, 842 F.Supp.2d 85, 2012 U.S. Dist. LEXIS 12860 (2012), appeal dismissed by 2012 U.S. App. LEXIS 24828 (D.C. Cir. Oct. 19, 2012), amended by 2012 U.S. Dist. LEXIS 151231, 41 Media L. Rep. (BNA) 1752 (D.D.C. Oct. 22, 2012).

Church failed to show that a court had jurisdiction over counterclaim defendants based on a conspiracy theory of personal jurisdiction under D.C. Code § 13-423(a); there was no information about what the roles of the parties to the alleged agreement were in carrying out the alleged conspiracy, or which of the named parties took part in the alleged conspiracy. Family Fed'n for World Peace And Unification v. Hyun Ji n Moon, — WLR —, 2013 D.C. Super. LEXIS 10 (Oct. 28, 2013).

Contracts to supply services.

— Attorneys, contracts to supply services.

Florida client was not subject to personal jurisdiction in District of Columbia in law firm's breach of contract action, even though client hired lawyers from firm's office in District and contemplated that work would be performed in District, where subject matter of engagement was Oregon proceeding, client provided no evidence of any meetings in District or telephone conversations with layers in District concerning Oregon engagement after contract was signed, and engagement lasted less than one year. Thompson Hine LLP v. Smoking Everywhere, Inc., 840 F.Supp.2d 138, 2012 U.S. Dist. LEXIS 1676 (2012), affirmed by 734 F.3d 1187, 2013 U.S. App. LEXIS 22797 (D.C. Cir. 2013).

Florida client was not subject to personal jurisdiction District of Columbia in law firm's breach of contract action, even though client entered into retainer agreement to have firm represent it in dispute with Food and Drug Administration (FDA), even though attorneys in District worked on matter, where firm was Ohio partnership, retainer agreement was on firm letterhead bearing Georgia address, client did not come to District to meet with District lawyers without lawyer from Georgia office, and Georgia lawyer expanded team into District by calling upon attorneys he selected to "assist" him on matter. Thompson Hine LLP v. Smoking Everywhere, Inc., 840 F.Supp.2d 138, 2012 U.S. Dist. LEXIS 1676 (2012), affirmed by 734 F.3d 1187, 2013 U.S. App. LEXIS 22797 (D.C. Cir. 2013).

Corporations.

— In general.

Allegations that parent telecommunications company was responsible for establishing revenue targets, operational goals and guidelines, customer acquisition and support strategies for local telecommunications companies, and that consumer attempted to contact parent company to resolve billing issue, were insufficient to demonstrate that parent company directed any activity into the District of Columbia related to consumer's claims, as required to establish a basis for specific jurisdiction over parent company under District of Columbia's long arm statute. Mazza v. Verizon Wash. DC, Inc., 852 F.Supp.2d 28, 2012 U.S. Dist. LEXIS 43314 (2012).

Plaintiffs alleged sufficient facts to show that individuals who were directors of nonprofit corporation had purposefully availed themselves of District of Columbia law, such that the Superior Court could exercise personal jurisdiction over individuals pursuant to the District of Columbia's long-arm statute, notwithstanding the fiduciary-shield doctrine, in an action against them for, inter alia, breach of trust and breach of fiduciary duties; individuals were directors of corporation, which was established under the District of Columbia Nonprofit Corporation Act and did not have members, and were collectively vested with the exclusive right to vote on all matters affecting corporation and the responsibility to regulate corporation's internal affairs, and individuals allegedly did not act to further corporation's business but, instead, acted in contravention of corporation's purpose and exclusively for their individual benefit. The Federation for World Peace and Unification International, et al. v. Moon, et al., 140 WLR 1605 (Super. Ct. 2012).

Dismissal of actions generally.

Where plaintiff objected to magistrate judge's recommendation that defendants' motions to dismiss for lack of personal jurisdiction be granted, plaintiff asserted that court had jurisdiction over one defendant, at least in part, on email defendant sent to him on July 8, 2010. However, despite court's repeated questioning at oral argument, plaintiff was unable to identify any facts to support his conclusory assertion that defendants had engaged in persistent course of conduct in District of Columbia. Houlahan v. Brown, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 145737 (D.D.C. Oct. 8, 2013).

Due process, generally.

Where the allegations did not demonstrate that one defendant directed any activity into the District of Columbia related to plaintiff's

claims, plaintiff could not establish specific jurisdiction under the long-arm statute and the court did not need not reach the question of whether exercising jurisdiction over that defendant would comport with due process. Mazza v. Verizon Wash. DC, Inc., 852 F. Supp. 2d 28, 2012 U.S. Dist. LEXIS 43314 (D.D.C. Mar. 29, 2012).

Establishing jurisdiction, generally.

Plaintiff couple established no basis for the exercise of personal jurisdiction over nonresident defendants under D.C. Code § 13-423(a), the District's long-arm statute because plaintiffs' complaint failed to allege facts with respect to the defendants' contacts with the District, whether by transacting business or contracting to supply services there; the complaint also failed to reveal any basis from which the court could conclude that plaintiffs suffered an injury there, whether by act or omission committed inside or outside of the District; and plaintiffs did not make a sufficient showing of the "unity of ownership and interest" that was necessary to attribute the jurisdictional contacts of District of Columbia-based resident defendants to the nonresident defendants. Absent any allegations to show the non-resident defendants' purposeful activities sufficient to invoke the benefits or protections of the District's laws, exercise of personal jurisdiction over the nonresident defendants did not comport with due process. Clay v. Blue Hackle N. Am., LLC, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 170308 (D.D.C. Nov. 30, 2012), appeal dismissed by 2013 U.S. App. LEXIS 21070 (D.C. Cir. Sept. 5, 2013).

Exceptions.

— Government contacts, exceptions.

Unsupported allegations that a nonresident defendant has fraudulently induced unwarranted government action against the plaintiff will not be sufficient to invoke the fraud exception to the government contacts doctrine, pursuant to which entry into the District of Columbia by nonresidents for the purposes of contacting federal government agencies is not a basis for the assertion of in personam jurisdiction; rather, only those allegations that meet the requirements for pleading fraud under pleading rule for fraud claims or its federal counterpart will be sufficient to confer personal jurisdiction in the District. Companhia Brasileira Carbureto De Calcio v. Applied Indus. Materials Corp., 35 A.3d 1127, 2012 D.C. App. LEXIS 9 (2012).

Neither defendant Tennessee Valley Authority's contacts with, nor its presence in the District of Columbia, nor its status as a federal agency gave the U.S. District Court for the District of Columbia personal jurisdiction over the TVA pursuant to the District's long-arm statute. Defendant had enough of the qualities of a private corporation to qualify for the governmental contacts exception to the exercise of personal jurisdiction for corporations that kept an office in the District of Columbia for the purpose of maintaining contact with Congress and governmental agencies. Sierra Club v. TVA, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 169209 (D.D.C. Nov. 29, 2012).

General or specific jurisdiction.

Shoulder surgery patient's product liability claims against nonresident manufacturer of pain pump did not arise from manufacturer's conduct in District of Columbia, and thus District of Columbia district court lacked specific personal jurisdiction over manufacturer under District's long-arm statute, where patient's surgeries and subsequent treatments had been performed in New York, and manufacturer's marketing activities within District of Columbia, if any, had no connection with patient's negligence claim. Marshall v. I-Flow, LLC, 2012 WL 1372103 (2012).

Court could not exercise either general or specific personal jurisdiction over deputy prosecutor for a Kazakhstan city, former head of an investigation group of Kazakhstan's Interior Ministry, a deputy to the head of the Investigation Directorate of Kazakhstan's Agency on Economic Crimes and Corruption (Finpol), the deputy head of Kazakhstan city detention center or a senior officer of the detention center in suit brought by two Kazakhstani citizens and three United States corporations under the Alien Tort Statute; nowhere in complaint did plaintiffs allege any facts showing that those individual officials had any, let alone "continuous and systematic," contact with the United States, and there were no allegations that officials in any way directed their activities in investigating, prosecuting, detaining individual plaintiffs toward the United States. Marshall v. I-Flow, LLC, 2012 WL 1372103 (2012).

Marital relationships.

Plaintiff ex-husband's claims that alleged defamation against North Carolina (NC) defendant ex-wife were dismissed, because the husband failed to allege any facts that established personal jurisdiction under D.C. Code § 13-423; the wife lived in NC during the relevant time period, and obtained both a divorce decree and a judgment terminating plaintiff's parental rights in NC courts. Coleman v. Silver, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 54104 (D.D.C. Apr. 17, 2013).

Minimum contacts.

— In general.

For-profit vocational college's contacts with District of Columbia consisted solely in participating in federal financial aid programs

through the Department of Education, and therefore, were insufficient pursuant to government contacts exception to District of Columbia long-arm statute to establish personal jurisdiction in District over college in students' putative class action alleging violations of the Equal Credit Opportunity Act, Title VI, and the Virginia Consumer Protection Act; college only had contact with District in order to deal with a federal instrumentality and had no other contacts. Morgan v. Richmond School of Health and Technology, Inc., 2012 WL 1476062 (2012).

U.S. District Court for the District of Columbia lacked personal jurisdiction over a vocational school which present and former students alleged provided an inadequate education, since the school's only contacts with the District were in the course of assisting students obtain federal financial aid and thus the government-contacts exception to personal jurisdiction was applicable. Morgan v. Richmond Sch. of Health & Tech., Inc., 857 F. Supp. 2d 104, 2012 U.S. Dist. LEXIS 59683 (D.D.C. Apr. 30, 2012).

District of Columbia court lacked personal jurisdiction over nonresident borrower in lender's action to recover money due under promissory note, even if borrower had made payments to lender across interstate lines while lender resided in District of Columbia, where borrower had never been domiciled in District of Columbia, borrower's principal place of business had not been in District of Columbia, and lender had not loaned money to borrower within District of Columbia, nothing in promissory notes referred to District of Columbia, and promissory notes contained California and Texas addresses for parties and stated that notes were to be governed and interpreted under laws of State of Texas. Atwal v. Myer, 841 F.Supp.2d 364, 2012 U.S. Dist. LEXIS 11539 (2012).

Personal representative.

Estate's unilateral choice to have defendant personal representatives (PR) send checks to a beneficiary's District of Columbia (D.C.) address was not purposeful availment of the privilege of conducting activities in D.C; the PRs were not subject to personal jurisdiction in D.C. under D.C. Code §§ 13-422, 13-423(a)(1), with regard to claims by plaintiff, the beneficiary's surviving spouse. Loreto v. Cushman, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 34530 (D.D.C. Mar. 12, 2013).

Transacting business.

— Establishing jurisdiction, transacting business.

Lender's parent corporation did not transact business in the District of Columbia, as required for exercise of specific jurisdiction over the corporation, under the District of Columbia's long-arm statute, in borrower's putative class action asserting claims arising out of lender's sub-prime lending practices, where the dispute was between Virginia residents over real property located in Virginia and agreements that were negotiated, executed, and performed in Virginia. Khatib v. Alliance Bankshares Corp., 846 F.Supp.2d 18, 2012 U.S. Dist. LEXIS 27020 (2012).

— Extent of jurisdiction, transacting business.

Former employee, a District of Columbia (DC) resident, failed to allege facts for the court to assert personal jurisdiction pursuant to D.C. Code § 13-423(a)(1) over New Jersey residents, directors of New York based (NY) employer, where activities including approval of a reduction in workforce, signing employee's termination letter, and one to three visits each to the NY office while employee worked there, fell squarely within the scope of defendants' employment, and did not involve either defendant doing business in a personal capacity in DC. Caldwell v. Romero, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 27395 (D.D.C. Mar. 2, 2012), affirmed by 2013 U.S. App. LEXIS 11368 (D.C. Cir. June 5, 2013).

In a case in which an Ohio law firm sued its client, who was a Florida resident, in the District of Columbia, the client never purposely availed himself of the privilege of conducting activities within the District; because neither the retainer itself nor anything about the client's dealings with the firm demonstrated that the client purposefully availed himself of the privilege of conducting activities within the District, the trial court properly dismissed the case for lack of personal jurisdiction. Thompson Hine, LLP v. Taieb, 734 F.3d 1187, 2013 U.S. App. LEXIS 22797 (D.C. Cir. 2013).

— Minimum contacts generally, transacting business.

Non-resident's mere retention of a District of Columbia-based service provider, absent any other deliberate contact with the forum — demonstrated either by the terms of the contract itself or by the non-resident's actual dealings with the District — cannot qualify as a "minimum contact." Thompson Hine, LLP v. Taieb, 734 F.3d 1187, 2013 U.S. App. LEXIS 22797 (D.C. Cir. 2013).

— Presence within District, transacting business.

Virginia-based competitor's actions did not constitute "transacting business" or causing a tortious injury within District of Columbia within meaning of District's long-arm statute; there was no evidence that competitor of restaurant chain regularly did or solicited business or engaged in any other persistent course of conduct in the District, as competitor conducted no business on or through its informa-

tional websites which were accessible from the District, and its consideration of a possible business expansion into the District consisted of one isolated phone call. Sweetgreen, Inc. v. Sweet Leaf, Inc., 2012 WL 975415 (2012).

Personal jurisdiction was shown in a copyright infringement suit regarding the use of certain photographs in D.C. restaurants because the defendant's provision of employees and other resources to these restaurants in D.C., along with the numerous visits by the defendant's officers and employees throughout the construction, development, and operational phases of those restaurants, amounted to the transacting of business in D.C. Rundquist v. Vapiano SE, — F. Supp. 2d —, 2012 U.S. Dist. LEXIS 170035 (D.D.C. Nov. 9, 2012).

— Purposeful conduct, transacting business.

Plaintiff did not claim that defendant insurer's limited business in the District of Columbia constituted "regularly" doing business or deriving substantial revenue from services rendered in the District as required by the District's long-arm statute, D.C. Code § 13-423(a)(4), so the court had no personal jurisdiction. Cannon v. Wells Fargo Bank, N.A., — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 27927 (D.D.C. Mar. 1, 2013).

LAW REVIEWS AND JOURNAL COMMENTARIES

Personal Jurisdiction, Federalism, and Disciplinary Proceedings: Determining the Exposure to Suit Through Official Actions, 64 Geo.Wash.L.Rev. 906 (1996).

The Government Contacts Exception to the District of Columbia Long-Arm Statute: Portrait of a Legal Morass. 36 Cath.U.L.Rev. 745 (1987).

TITLE 14. PROOF.

Chapter 1. Evidence Generally; Depositions.

§ 14-102. Impeachment of witnesses.

CASE NOTES

Analysis

Confession.
Inconsistent statements.
—Effect of impeachment by inconsistent statements.
Prior consistent statement.

Confession.

Though defendant's confession was obtained in violation of his rights under Miranda and Edwards v. Arizona, 451 U.S. 477 (1981), as the trial court found that contrition, not coercion, motivated him to confess, it properly deemed the confession voluntary; therefore, while the confession was inadmissible during the government's case-in-chief, it could be used to impeach defendant if he testified. Dorsey v. United States, 60 A.3d 1171, 2013 D.C. App. LEXIS 3 (2013).

Inconsistent statements.

— Effect of impeachment by inconsistent statements.

Defendant was not substantially prejudiced at a firearms trial by any impropriety in prosecutor's delay in disclosing mistaken testimony of police officer at a preliminary hearing that he was told by another officer that defendant had slid a firearm underneath a fence, such that trial court could deny defendant's motion for a mistrial based on the delay, which comprised a few hours starting when prosecutor realized that officer had mistakenly testified and ending when officer testified for the defense at trial that the other officer had told him that defendant had thrown the firearm over the fence; officer's reversal of his testimony under oath made officer appear careless and unreliable, defense counsel immediately and effectively responded to the changed testimony by impeaching officer and forcefully argued in closing that officer's testimony by itself created reasonable doubt, officer's prior testimony came in as substantive evidence to impeach other officer's testimony, and defendant's defense did not stand up to reason and would not have been any stronger in the absence of officer's testimony. Thompson v. United States, 45 A.3d 688, 2012 D.C. App. LEXIS 298 (2012).

Prior consistent statement.

Trial court did not err in permitting a witness's rehabilitation with grand jury testimony, which included a prior consistent statement, because the prior consistent statement, made to police shortly after the shooting, was admissible to rebut a charge of a very recent and different reason to fabricate, and making the jury aware of the witness's motive allowed the jury to weight the statement accordingly. Mason v. United States, 53 A.3d 1084, 2012 D.C. App. LEXIS 498 (2012).

Applied in Harrison v. United States, 76 A.3d 826, 2013 D.C. App. LEXIS 524 (2013), writ of certiorari denied by 2014 U.S. LEXIS 1812, 82 U.S.L.W. 3528 (U.S. Mar. 10, 2014).

Chapter 3. Competency of Witnesses.

§ 14-307. Physicians and mental health professionals.

(a) In the Federal courts in the District of Columbia and District of

Columbia courts a physician or surgeon or mental health professional as defined by § 7-1201.01(11) or a domestic violence counselor as defined in § 14-310(a)(2), or a human trafficking counselor as defined in § 14-311(a)(2) may not be permitted, without the consent of the client, or of his legal representative, to disclose any information, confidential in its nature, that he has acquired in attending a client in a professional capacity and that was necessary to enable him to act in that capacity, whether the information was obtained from the client or from his family or from the person or persons in charge of him.

(b) This section does not apply to:

(1) evidence in a grand jury, criminal, delinquency, family, or domestic violence proceeding where a person is targeted for or charged with causing the death of or injuring a human being, or with attempting or threatening to kill or injure a human being, or a report has been filed with the police pursuant to § 7-2601, and the disclosure is required in the interests of public justice;

(2) evidence relating to the mental competency or sanity of an accused in criminal trials where the accused raises the defense of insanity or where the court is required under prevailing law to raise the defense sua sponte, or in the pretrial or posttrial proceedings involving a criminal case where a question arises concerning the mental condition of an accused or convicted person;

(3) evidence relating to the mental competency or sanity of a child alleged to be delinquent, neglected, or in need of supervision in any proceeding before the Family Division of the Superior Court;

(4) evidence in a grand jury, criminal, delinquency, or civil proceeding where a person is alleged to have defrauded the District of Columbia or federal government in relation to receiving or providing services under the District of Columbia medical assistance program authorized by title 19 of the Social Security Act, approved July 30, 1965 (79 Stat. 343; 42 U.S.C. § 1396 et seq.), or where a person is alleged to have defrauded a health care benefit program; or

(5) evidence in a criminal or delinquency proceeding where a person is charged with an impaired driving offense and where the person caused the death of or injury to a human being, and the disclosure is required in the interest of public justice.

(c) For the purposes of this section, the term:

(1) "Health care benefit program" means any public or private plan or contract under which a medical benefit, item, or service is or may be provided to an individual, and includes an individual or entity who provides a medical benefit, item, or service for which payment may be made under the plan or contract.

(2) "Injury" includes, in addition to physical damage to the body, a sexual act or sexual contact prohibited by Chapter 30 of Title 22.

(Dec. 23, 1963, 77 Stat. 519, Pub. L. 88-241, § 1; July 29, 1970, 84 Stat. 552, Pub. L. 91-358, title I, § 143(3); Mar. 3, 1979, D.C. Law 2-136, § 805(b), 25 DCR 5055; Mar. 16, 1985, D.C. Law 5-193, § 7, 32 DCR 1010; Mar. 25, 1986, D.C. Law 6-99, § 1101(a), 33 DCR 729; Apr. 30, 1988, D.C. Law 7-104, § 3, 35

DCR 147; Mar. 13, 2004, D.C. Law 15-105, § 99, 51 DCR 881; Mar. 2, 2007, D.C. Law 16-204, § 3(b), 53 DCR 9059; Apr. 24, 2007, D.C. Law 16-305, § 32, 53 DCR 6198; Dec. 10, 2009, D.C. Law 18-88, § 207, 56 DCR 7413; Oct. 23, 2010, D.C. Law 18-239, § 203(b), 57 DCR 5405; Apr. 27, 2013, D.C. Law 19-266, § 301, 59 DCR 12957.)

Section references. — This section is referenced in § 4-1321.02, § 4-1321.05, § 4-1371.12, § 7-1911, § 16-2359, § 16-2388, § 34-1802, and § 47-368.02.

Effect of amendments.

The 2013 amendment by D.C. Law 19-266 added (b)(5); and made related changes.

Emergency legislation.

For temporary (90 day) amendment of section, see § 301 of Comprehensive Impaired Driving and Alcohol Testing Program Emergency Amendment Act of 2012 (D.C. Act 19-429, July 30, 2012, 59 DCR 9387).

For temporary amendment of (b), see § 301 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Amendment Act of 2012 (D.C Act 19-508, October 26, 2012, 59 DCR 13325).

For temporary (90 days) amendment of this section, see § 301 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Act of 2013 (D.C. Act 20-3, January 29, 2013, 60 DCR 2762, 20 DCSTAT 410).

For temporary (90 days) amendment of this section, see § 301 of the Comprehensive Impaired Driving and Alcohol Testing Program Congressional Review Emergency Act of 2013 (D.C. Act 20-3, January 29, 2013, 60 DCR 2762, 20 DCSTAT 410).

Legislative history of Law 19-266. — Law 19-266, the "Comprehensive Impaired Driving and Alcohol Testing Program Amendment Act of 2012," was introduced in Council and assigned Bill No. 19-777. The Bill was adopted on first and second readings on July 10, 2012, and Sept. 19, 2012, respectively. Signed by the Mayor on Oct. 24, 2012, it was assigned Act No. 19-489 and transmitted to Congress for its review. D.C. Law 19-266 became effective on Apr. 27, 2013.

CASE NOTES

ANALYSIS

Construction with other law.
Mental health records.
Mental health information, waiver of privilege.

Construction with other law.

Child custody statute, D.C. Code § 16-914, does not create an implied exception in custody cases to the privilege statute, D.C. Code § 14-307, which protects the confidentiality of mental health treatment information. Adler v. Adler, 2012 D.C. Super. LEXIS 10 (Dec. 11, 2012).

Mental health records.

In a custody case, the court may order the disclosure of a party's therapy records and other confidential mental health treatment information only if it finds: (1) that the information is necessary to the resolution of a disputed issue material to the safety of the child, a party's fitness as a parent, or a central aspect of the determination of the child's best interest; and (2) that other sources of information sufficient to enable the court to protect the child and advance the child's best interest are unavailable. Adler v. Adler, 2012 D.C. Super. LEXIS 10 (Dec. 11, 2012).

In custody litigation, the father's motion for leave to conduct discovery of the mother's confidential mental health treatment information was denied, as he did not establish that other sources of information concerning her mental health were unavailable, since she had agreed to submit to a mental examination by a psychologist. Adler v. Adler, 2012 D.C. Super. LEXIS 10 (Dec. 11, 2012).

Mental health information, waiver of privilege.

In a custody case where the father challenged the mother's mental health, by generally denying that her depression and anxiety compromised her fitness as a parent, the mother did not make an implied waiver of her D.C. Code § 14-307 privilege protecting the confidentiality of her mental health treatment information. Adler v. Adler, 2012 D.C. Super. LEXIS 10 (Dec. 11, 2012).

TITLE 15. JUDGMENTS AND EXECUTIONS; FEES AND COSTS.

Chapter 1. Judgments and Decrees.

§ 15-102. Lien of judgment, decree, or forfeited recognizance.

Section references. — This section is referenced in § 42-1210.

CASE NOTES

Decree for the payment of money.

Certified copy of the docket sheet in a Landlord Tenant Court case, that showed that a money judgment had been entered, constituted a "decree for the payment of money" within meaning of judgment lien statute, and therefore the filing and recordation in the Office of the Recorder of Deeds of a certified copy of the docket sheet by the judgment creditor sufficed to create a lien on the real property of an individual against whom the Landlord and Tenant Court had entered a money judgment; docket entry was a separately dated item, demarcating it as distinct from the other 39 entries on the docket sheet, entry contained no recital of pleadings and no history or record of prior proceedings, entry stated plainly in whose favor the judgment was entered and, since it appeared on a docket sheet bearing the caption of the case, anyone reading entry could have seen against whom the judgment was entered. Robinson v. Georgetown Court Condo., LLC, 39 A.3d 1286, 2012 D.C. App. LEXIS 131 (2012).

§ 15-108. Interest on judgment for liquidated debt.

CASE NOTES

Analysis

Foreign judgments.
Prejudgment interest.

Foreign judgments.

District court's failure to award postjudgment interest, in judgment confirming foreign arbitral award, under Federal Arbitration Act and New York Convention, and holding foreign judgment enforceable, under District of Columbia's Uniform Foreign-Money Judgments Recognition Act (UFMJRA), was "mistake arising from oversight or omission," within meaning of rule authorizing relief from judgment or order, since foreign judgment creditor was statutorily entitled to award of postjudgment interest, and making that determination did not require revisiting merits of judgment creditor's claim. Cont'l Transfert Technique, Ltd. v. Fed. Gov't of Nig., 850 F.Supp.2d 277, 2012 U.S. Dist. LEXIS 41292 (2012).

Prejudgment interest.

Principles of equity did not entitle parent of minor child to prejudgment interest under District of Columbia law after she had prevailed in her IDEA case against the District of Columbia, where District of Columbia did not seek to deny the parent recovery of attorney fees, but instead disagreed as to the appropriate amount of compensation, and attorney fees invoices were paid promptly with certain adjustments based on the District's belief that the fees were unreasonable. Garvin v. Gov't of the Dist. of Columbia, 851 F.Supp.2d 101, 2012 U.S. Dist. LEXIS 45720 (2012).

Foreign judgment creditor's mere inclusion of request for prejudgment interest in complaint seeking to enforce foreign arbitral award, under Federal Arbitration Act and New York Convention, and to enforce, under District of Columbia's Uniform Foreign-Money Judgments Recognition Act (UFMJRA), foreign judgment confirming arbitral award as final and enforceable, did not permit judgment creditor to include request in motion to correct clerical mistake or mistake arising from oversight or omission in district court's judgment confirming award and holding foreign judgment enforceable, since district court's judgment was silent about prejudgment interest and accurately reflected court's decision, so judgment

creditor was required to pursue request through motion to alter or amend judgment. Cont'l Transfert Technique, Ltd. v. Fed. Gov't of Nig., 850 F.Supp.2d 277, 2012 U.S. Dist. LEXIS 41292 (2012).

In an action for attorney's fees pursuant to the Individuals with Disabilities Education Act, 20 U.S.C.S. § 1415(i)(3)(B)(i), principles of equity did not entitle the plaintiffs to prejudgment interest on their award because the defendant did not seek to deny the plaintiffs recovery of their attorney's fees, but instead disagreed as to the appropriate amount of compensation; invoices were paid promptly with certain adjustments based on the defendant's belief that the fees were unreasonable. Garvin v. Gov't of the Dist. of Columbia, 851 F. Supp. 2d 101, 2012 U.S. Dist. LEXIS 45720 (D.D.C. Mar. 30, 2012).

After finding a landlord liable to a real estate broker for unpaid commissions, the trial court properly refused to grant the broker prejudgment interest under D.C. Code § 15-108, because due to the necessity of litigation to settle the dispute over the amount of such commissions, the sum due the broker was indefinite, not liquidated, and thus outside the scope of § 15-108. Steuart Inv. Co. v. Meyer Group, 61 A.3d 1227, 2013 D.C. App. LEXIS 60 (2013).

After finding a landlord liable to a real estate broker for unpaid commissions, the trial court properly refused to grant the broker prejudgment interest under D.C. Code § 15-108, because the parties had no contractual agreement for the payment of interest, and the broker presented no evidence that in the real estate industry, interest would customarily be paid on a brokerage commission. Steuart Inv. Co. v. Meyer Group, 61 A.3d 1227, 2013 D.C. App. LEXIS 60 (2013).

§ 15-109. Interest on judgment for damages in contract or tort.

CASE NOTES

Prejudgment interest allowed.

Prejudgment interest, under D.C. Code § 15-109, was necessary to fully compensate an embassy for the losses it had suffered as a result of the corporation's misconduct because the embassy was deprived of the $1.55 million tax refund for five and a half years, a substantial amount of money which could have, according to the embassy, been used to promote Nigeria interests in the United States, maintain the embassy's building and facilities, pay the salaries of the Nigerian and U.S. citizens who worked in its embassy, or support its operations or other needs. Embassy of the Fed. Republic of Nig. v. Ugwuonye, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 72395 (D.D.C. May 22, 2013).

Applied in Embassy of the Fed. Republic of Nig. v. Ugwuonye, 297 F.R.D. 4, 2013 U.S. Dist. LEXIS 103381 (D.D.C. 2013).

CHAPTER 5. EXEMPTIONS AND TRIAL OF RIGHT TO SEIZED PROPERTY.

Subchapter I. Exemptions.

§ 15-501. Exempt property of householder; property in transitu; debt for wages.

Section references. — This section is referenced in § 15-502 and § 20-904.

CASE NOTES

ANALYSIS

Household goods.
Limitations.

Household goods.

Chapter 7 debtors had to turn over to trustee household goods which they had lumped together in claiming them as exempt under District of Columbia statute, which permitted exemption of "debtor's interest, not to exceed $425 in value, in any particular item or $8,625 in aggregate value" in household goods, but had valued at amount exceeding $425, without

claiming exemption amounts for individual items, although debtors were entitled to recover exemptible amount out of proceeds of such property. In re Wade, 466 B.R. 20, 2012 Bankr. LEXIS 543 (2012).

Limitations.

Under District of Columbia statute allowing debtor to exempt debtor's aggregate interest in any property, not to exceed $850 in value, plus up to $8,075 of any unused amount of exemption for debtor's aggregate interest in real property used as debtor's residence, debtors' exemption was limited to $850 for each debtor after debtors claimed as exempt entire amount of their equity in residence, as well as their non-equity interests in property, leaving no unused portion of their exemption for their residential property. In re Wade, 466 B.R. 20, 2012 Bankr. LEXIS 543 (2012).